

REMARKS

Status of the Claims

Claims 24-42 are currently in the case.

Objection to the Drawings

The Action objects to the drawings, stating that there is no drawing of a filter placed so that it can filter the beverage after processing.

Applicants respectfully traverse, in that the filter designated as 32 in Figure 1 is configured to filter the beverage during and after processing. For example, beverage passing through filter 32 may be directed to the cartridge 34 for further processing or to tank 36 after processing is complete.

Applicants respectfully request that this objection be withdrawn.

Rejections Under §112

The term "about" as used in claims 24, 35 and 37 is not indefinite.

It is well established in patent law that the use of flexible terms such as about does not necessarily render a claim indefinite as long as one of skill in the art would be reasonably apprised of the scope of the claim. Applicants assert that the present claims meet that standard. The Examiner's attention is drawn to MPEP 2173.05(b) which includes a discussion of the use of the term "about." Cases from both the Board of Appeals and the Court of Appeals for the Federal Circuit are cited in which the term about is deemed not to render a claim indefinite in those cases in which there is no close prior art. Because the Examiner has not produced any close prior art, nor offered any explanation of why the term "about" renders the claims indefinite, Applicants respectfully request that the rejection be withdrawn.

The term "partially aged beverage" is not indefinite.

The Action rejects claims 24 and 36 for use of the term "partially aged beverage," but the Examiner has given no indication of why this term is considered indefinite or why one of skill in the art would not be able to determine the scope of the claim containing this language.

Applicants submit that one in the art would easily understand that a process for aging an unaged or partially aged beverage is a process that can start with a raw distillate (unaged) or a beverage that has some aging, but that is not yet fully matured into the final product.

This is explained in the Specification at page 6, beginning on line 6:

It is understood that the present invention may be practiced in combination with barrel aging of a beverage, to begin or finish a maturing process for a beverage that is partially aged in a barrel.

Conventional aging of beverages is discussed on page 3, beginning on line 9:

In conventional barrel-aging, the pH takes about 6 months to drop to the required acidic levels for the various reactions necessary for the development of beverage character to occur. Thereafter, the production of ethyl acetate is dependent upon the formation of acetic acid in the barrel, which takes 36 to 48 months to reach the level of marketable, aged beverages, often 4 years old (Reazin, 1981).

Aging is thus another term for "maturing" as also described on page 3 of the Specification:

The present disclosure provides an improvement in the aging process of beverages that are normally aged in contact with a wood product such as an oak barrel or other wood product. The invention provides a means of aging a beverage in contact with a wood product, so that the beverage acquires the desired organoleptic characteristics that are associated with wood-aged beverages, in an accelerated manner. The present disclosure provides methods by which a raw distilled liquid may be contained in a closed system and circulated through a flavor transfer cartridge containing a comminuted wood product, thus acquiring the organoleptic character of a matured beverage in a greatly accelerated manner.

And on page 5, line 15:

The present invention may be described in certain aspects, therefore, as a method of maturing a beverage, the method including combining an unaged, or partially aged beverage, and a wood product, and processing said beverage in conditions effective to produce a mature beverage

One of skill would thus understand that the claim is not limited to any particular level of partial aging. Applicants respectfully request, therefore, that this rejection be withdrawn.

The term "interchangeable cartridge" does not render claims 25 and 38 indefinite.

The Action states that it is unclear what the interchangeable cartridge is interchangeable with. The interchange of cartridges is clearly explained at page 8, lines 18-26:

In certain preferred embodiments, the wood product containing device is an interchangeable cartridge, preferably a stainless steel cartridge that is configured to be temporarily placed in the closed system for use in maturing a single batch or run of the unaged beverage. By interchangeable is also meant that one cartridge may be used and then removed from the system without affecting any of the other components. Subsequently another cartridge may be added in its place for the next run. In this way, the system may be set up in a permanent location and used for the aging of many different beverages. A particular cartridge would then be designed for each individual beverage to be aged, and placed into the system for that particular run.

Applicants respectfully request, therefore, that the rejection be withdrawn.

Rejections Under §102

The Action has rejected claims 36 and 39-42 over US Patent No. 5,980,694 (Apeldoorn). Applicants respectfully traverse the rejection in that not every element of the rejected claims is described in a single reference. The rejections under §102 are thus improper and should be withdrawn.

For example, Applicants find no description in Apeldoorn of several elements of Claim 36, the broadest claim rejected under §102.

Applicants find no description in Apeldoorn of "a filter configured to filter said beverage during or after processing" as in Claim 36.

The Action points to filter 5 of Apeldoorn, and the copy provided to Applicants has col. 2, line 59 underlined: "This pre-separation unit may take the form of a filter."

This pre-separation unit described in Apeldoorn does not anticipate a filter configured to filter said beverage **during or after processing** as described in Claim 36. Although the Apeldoorn reference describes a system that may contain a pre-filter, the rejection ignores the placement of the filter in the claimed system as being configured to filter the beverage during or after processing, rather than prior to processing as described in the Apeldoorn system. The Apeldoorn filter is configured to remove solids from oil-polluted water coming directly from an oil production facility. See col. 2, line 32.

Furthermore, according to the invention a pre-cleaning installation may be incorporated in the polluted water feed in order to supply the distillation column with water from which dust particles and part of the oil have been removed so that the distillation column is a little less heavily burdened.

In contrast, the filter of Claim 36 does not filter the raw or partially aged distillate, but rather filters the beverage that has contacted the wood product during or after processing. Because the Apeldoorn filter is not configured as described in Claim 36, the reference does not anticipate the Claim, and this rejection should be withdrawn.

Applicants find no description in Apeldoorn of "a valve for sampling said beverage during processing" as in Claim 36.

Applicants submit that the valves described in Apeldoorn as numbers 12 and 35, which are operated in response to the analysis installations are described as 3-way valves for directing

the fluid to one of two pipes. Neither of these is a valve for sampling the beverage during processing to monitor the chemical or organoleptic properties of the beverage during processing. This valve is also described in the Specification as a "port" (44 in Figure 1). The figure clearly shows that this is a port or valve to remove samples from the system and is not a 3-way valve to redirect the liquid to either of two pipes.

Because the Apeldoorn patent does not describe a valve for sampling the liquid during processing as described in Claim 36, the reference does not anticipate the Claim, and this rejection should be withdrawn.

Applicants find no description in Apeldoorn of "a container for a beverage aging wood product in fluid communication with the closed system so that a beverage circulating in the closed system contacts the beverage aging wood product during use" as in Claim 36.

The Action takes the position that any description of a container anticipates this claim element, thus ignoring all terms in the element other than container. Applicants submit that this is improper and that the claims must be read in light of the specification. Tanks for holding oil polluted water and sea water do not anticipate a container for the beverage processing wood product described in the specification and cited as an element of Claim 36. The Examiner has produced no evidence that any container described in Apeldoorn would anticipate this element of Claim 36.

Because the Apeldoorn patent does not describe a container for a beverage processing wood product in fluid communication with the closed system of Claim 36, the reference cannot anticipate the pending claims. Applicants respectfully request that this rejection be withdrawn.

Applicants submit that all the Examiner's concerns have been addressed and that the claims are in condition for allowance. Such favorable action is respectfully requested. If the

Examiner has any questions or comments that would help progress the present claims to allowance, a telephone call to the undersigned representative is earnestly solicited.

Respectfully submitted,



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